

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

DAVID KIBEC,

3:12-cv-00559-ST

Plaintiff,

ORDER

v.

CARL BALOG, an individual,
OREGON PAIN ASSOCIATES, PC, an
Oregon corporation, and
AMERICAN PAIN RELIEF, LLC, an
Oregon limited liability
company,

Defendants.

MARSH, Judge

Magistrate Judge Janice M. Stewart issued her Findings and Recommendation on May 29, 2012, recommending that Defendants' Motion to Dismiss and Strike (#4) be granted in part, and denied in part. The matter is now before me pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). No objections have been timely filed.

When neither party objects to a Magistrate Judge's Findings and Recommendation, this court is relieved of its obligation to

review the record *de novo*. United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); see also United States v. Bernhardt, 840 F.2d 1441, 1444 (9th Cir. 1988). Having reviewed the legal principles *de novo*, I find no error.

Accordingly, I ADOPTED Magistrate Judge Stewart's Finding and Recommendation #12. IT IS ORDERED that Defendants' Motion to Dismiss and Strike (#4) is GRANTED IN PART and DENIED IN PART, with leave to amend, as follows:

1. Granted as to Count 3 of the First Claim and the Second Claim, without prejudice;

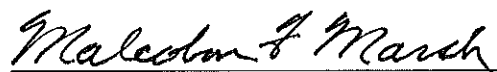
2. Granted as to the interest rates alleged in the Third and Fourth Claims, which are stricken;

3. Granted as to the requests for attorney fees in the Prayer as to the Third, Fourth, Fifth, and Sixth Claims which are stricken, without prejudice and with leave to amend; and as to the Eighth and Ninth Claims, which are stricken with prejudice; and

4. Otherwise DENIED.

IT IS SO ORDERED.

DATED this 28 day of June, 2012.


Malcolm F. Marsh
United States District Judge